

From: [Bill Jacobs](#)
To: [Elizabeth Leovey](#)
Cc: [Jennifer Gaines](#); [Russell Wasem](#); [Dan Peacock](#); [John Hebert](#); [Gene Benbow](#)
Subject: Fw: Rodenticides
Date: 07/28/2011 03:25 PM

FYI - Meredith asked me to respond to this.

----- Forwarded by Bill Jacobs/DC/USEPA/US on 07/28/2011 03:24 PM -----

From: Bill Jacobs/DC/USEPA/US
To: Mohammed El Damir <mohammed@adamspestcontrol.com>
Date: 07/28/2011 03:24 PM
Subject: Re: Rodenticides

Thank you for your prompt clarifying response to my questions.

I now will attempt address your questions from your e-mail message of July 27. For convenience, I have inserted them below.

I was reading on the EPA website the following, but i needed more explanation. What do you mean by

- Each retail unit must include a bait station.
- Bait refills may be sold with bait stations in a single retail unit.

Can we sell 2nd or 1st generation rodenticide to walk in clients using preload stains.

Summary of New Restrictions

“Consumer Size” Products (Products containing ≤ 1 pound of bait)

- May not contain brodifacoum, difethialone, bromadiolone, or difenacoum (the second-generation anticoagulants).
- Loose bait forms such as pellets are prohibited.
- Each retail unit must include a bait station.
- Bait refills may be sold with bait stations in a single retail unit.
- All outdoor above ground use must be in a bait station and be applied within 50 feet of buildings.
-

The bulleted items refer to the packaging, formulation, distribution, and use of commensal rodenticide bait products that are to be offered for sale in the types of stores where "consumers" typically shop (e.g., supermarkets, drugstores, "big box" stores, home-and-garden stores). These packaging arrangements are the responsibility of the registrants of the pesticide products. The products are to be packaged in these ways (discussed further below) before they are released into commerce and are to remain in such packaging when they are offered for sale.

Every package of commensal rodenticide bait product sold at "consumer" outlets is to include at least one bait station (Tier 1, 2, 3, or 4, labeled appropriately). If the bait station is of the single-use (non-refillable) type, each bait station in the package will come with one bait block already loaded into its bait compartment (or more than one bait block, pre-loaded, if the station's design accommodates multiple bait blocks

in one or more bait compartments). If the bait station is of the refillable type, the retail package is to include at least one bait station, preferably pre-loaded, plus bait blocks suitable for loading into the bait compartment such that they will remain there, at least until feeding by rodents commences, if the bait station is lifted, inverted, and/or shaken. Thus, the bait blocks are to be sized and shaped in order to create a snug fit in the bait compartments. At "consumer " outlets, refill blocks are only to be sold in packages with at least one bait station in them. The blocks are to be of the same composition and dimensions as those loaded into the stations prior to sale. Under this arrangement, each time a consumer shopping at such stores acquires refills, he/she also acquires at least one additional bait station as there will be at least one per retail package.

The active ingredients in the bait-block formulations sold packaged in or with bait stations at "consumer" outlets are limited to first-generation anticoagulants (Chlorophacinone, Diphacinone, or Warfarin) that are registered in the U.S. or to the following other rodenticides: Bromethalin, Cholecalciferol, or Zinc Phosphide. The total weight of bait blocks packed in or with the bait station in a retail package sold at "consumer" outlets is not to exceed one pound (453.6 g).

If you wanted to expand your business, you could offer for sale registered commensal rodenticide bait-and-bait-station products. You also could sell empty bait stations and, *separately*, commensal rodenticide baits labeled and packaged as indicated in EPA's 2008 "Risk Mitigation Decision for Ten Rodenticides" (RMD) for **"First-Generation Anticoagulant and Non-Anticoagulant Products for Agricultural Use and Professional Applicators (Pest Control Operators)"**, **"Second-Generation Anticoagulant Products for Agricultural Use"**, and/or **"Second-Generation Anticoagulant Products for Professional Applicators (Pest Control Operators)"**. As indicated in the RMD, the minimum amounts of bait to be provided in retail packages of these categories of products are 4 pounds, 8 pounds, and 16 pounds, respectively.. Users of such products would have to apply them in conformance with their labels, which require use of bait stations if bait placements otherwise would be accessible to children, pets, domestic animals, or nontarget wildlife.

What you may *not* do is to load a registered bait product into a bait station and then sell or distribute the loaded bait station. Bait stations sold empty are considered to be pesticide application equipment. As such, they are not regulated directly under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The behavior of one who applies baits in such a bait station is governed by the label for the registered rodenticide product selected for use. It is both legal and desirable for a user to load bait in a bait station and deploy it for commensal rodent control in a manner consistent with the labeling for the bait product being used. However, a merchant who loads the bait station for the customer prior to sale or distribution creates a new and unregistered pesticide product, namely a ready-to-use bait station. That product would have no accepted labeling. Neither the text on the bait station nor the text on the bait product's labeling would be accurate for the products as combined. Whether a first-generation or a second-generation anticoagulant bait were loaded into the bait station would not make a difference here. It would be illegal either way. Section 12(a)(1)(A) of FIFRA states that it is "unlawful" to sell a pesticide product that is not registered. Nothing in the RMD alters this circumstance.

I understand your firm's interest in gaining efficiency by providing pre-loaded bait

stations for clients to deploy "as needed between" service visits. However, that would amount to distribution or sale (the clients would be paying you at some point) of an unregistered pesticide. You also would be putting faith in others to use the products responsibly, which could incur additional liabilities for your firm.

Selling large packages (e.g., ≥ 16 pounds of second-generation anticoagulants) to individual accounts, especially residential ones, also might create future difficulties. If you venture into the area of providing baits and bait stations to customers, you might consider limiting that activity to registered "consumer" type ready-to-use bait stations with ≤ 1 pound of bait in the total package, or even to the subset of such products that are single-use (non-refillable) ready-to-use stations. With those, customers would not have extra bait blocks in their possession (which could cause problems if they were stored improperly or used without bait stations).

▼ Mohammed El Damir ---07/28/2011 11:12:44 AM---We have not. We usually do not sell pesticide/rodenticide to walk -in clients because we want them t

From: Mohammed El Damir <mohammed@adamspestcontrol.com>
To: Bill Jacobs/DC/USEPA/US@EPA
Date: 07/28/2011 11:12 AM
Subject: Re: Rodenticides

We have not. We usually do not sell pesticide/rodenticide to walk -in clients because we want them to hire us to do the services.

Since some walk-in people have asked us about this issue in the last few months, we will have a management meeting in our company to discuss this issue further. Therefore, I would like to collect all necessary info before that meeting. This will help us take the right decision.

We all aware about the new EPA restriction of rodenticides, but the pre-loaded bait station option would be discussed at the meeting.

Preload for walk-in clients.

Preload for current clients. For example, we have some accounts that we service in quarterly bases. Now, is it possible to leave pre-loaded bait stations for them to use as needed between services?? I also would like to know about the legality of this matter as well.

Your answer will help me in our company meeting.

Thank you,

Mohammed

On 7/28/2011 9:29 AM, Bill Jacobs wrote:

Your inquiry of July 27 to Elizabeth Leovey regarding rodenticide policies has been routed to me for reply.

Before I respond fully, however, I want to clarify something. You asked about selling bait to walk-in clients. Does your business make retail sales to customers in addition to the pest control services that are advertised on your website? If so, have you been selling baits and bait stations to customers separately or as a packaged arrangement?

--

Mohammed El Damir, Ph.D. | [Technical and Training Director](#) | mohammed@adamspestcontrol.com | [Direct 763.231.8918](#)

Adam's Pest Control Inc. | [922 Hwy 55 Ste 100](#) | [Medina MN 55340](#)
www.adamspestcontrol.com | [763.478.9810](#) | [800.227.2214](#) | [Fax 763.478.6715](#)

[Join our email list](#) and [follow us on Facebook!](#)